

5-16-2016

State v. Heisley Appellant's Brief Dckt. 43716

Follow this and additional works at: https://digitalcommons.law.uidaho.edu/not_reported

Recommended Citation

"State v. Heisley Appellant's Brief Dckt. 43716" (2016). *Not Reported*. 2928.
https://digitalcommons.law.uidaho.edu/not_reported/2928

This Court Document is brought to you for free and open access by the Idaho Supreme Court Records & Briefs at Digital Commons @ UIdaho Law. It has been accepted for inclusion in Not Reported by an authorized administrator of Digital Commons @ UIdaho Law. For more information, please contact annablaine@uidaho.edu.

SARA B. THOMAS
State Appellate Public Defender
I.S.B. #5867

JASON C. PINTLER
Deputy State Appellate Public Defender
I.S.B. #6661
P.O. Box 2816
Boise, ID 83701
(208) 334-2712

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NO. 43716
Plaintiff-Respondent,)	
)	ADA COUNTY NO. CR 2015-4579
v.)	
)	
ERIC EUGENE HEISLEY,)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Eric Heisley pled guilty to aggravated assault and was sentenced to a unified term of five years, with three and one-half years fixed, to run consecutively to a previously imposed sentence. Mr. Heisley asserts that his sentence is excessive in light of the mitigating factors present in this case.

Statement of Facts and Course of Proceedings

Eric Heisley, an inmate at the Idaho State Correctional Center, got into what he described as a “one-time argument [that] got out of control” with a fellow inmate that he had previously been on friendly terms with, and he struck the victim “multiple times in

the head and face, causing gross bodily harm.” (Tr., p.29, Ls.14-16; PSI, p.36.)¹ The State filed an amended complaint alleging that Mr. Heisley committed the crime of aggravated battery, Mr. Heisley waived his right to a preliminary hearing, was bound over into the district court, and an Information was filed charging him with the above crime. (R., pp.37-41, 43-44.) Pursuant to an agreement with the State, Mr. Heisley pled guilty to an amended charge of aggravated assault and was free to argue an appropriate sentence, knowing that the State would request the court impose a five-year fixed term which, by operation of I.C. § 19-2520F, must run consecutively to the sentence Mr. Heisley was serving when he committed the crime. (R., pp.63-72; Tr., p.1, L.3 – p.17, L.11.)

During the sentencing hearing, the State requested that the court impose a five-year fixed term to run consecutively to the sentence Mr. Heisley was already serving (Tr., p.23, Ls.14-24), while counsel for Mr. Heisley requested the court “craft a sentence that allows him to earn his way back into the community as soon as possible and as soon as the Court’s comfortable with that” (Tr., p.25, Ls.17-20). The court imposed a unified sentence of five years, with three and one-half years fixed, to run consecutively to the sentence Mr. Heisley was serving. (R., pp.74-78; Tr., p.30, L.16 – p.31, L.3.) Mr. Heisley filed a timely Notice of Appeal. (R., pp.80-82.)

ISSUE

Did the district court abuse its discretion when it imposed, upon Mr. Heisley, a unified sentence of five years, with three and one-half years fixed, in light of the mitigating factors present in his case?

¹ Citations to the Presentence Investigation Report and attached documents refer to the page number associated with the electronic file containing those documents.

ARGUMENT

The District Court Abused Its Discretion When It Imposed, Upon Mr. Heisley, A Unified Sentence Of Five Years, With Three And One-Half Years Fixed, In Light Of The Mitigating Factors Present In His Case

Mr. Heisley asserts that, given any view of the facts, his unified sentence of five years, with three and one-half years fixed, is excessive. Where a defendant contends that the sentencing court imposed an excessively harsh sentence, the appellate court will conduct an independent review of the record giving consideration to the nature of the offense, the character of the offender, and the protection of the public interest. *See State v. Reinke*, 103 Idaho 771 (Ct. App. 1982).

The Idaho Supreme Court has held that, “[w]here a sentence is within statutory limits, an appellant has the burden of showing a clear abuse of discretion on the part of the court imposing the sentence.” *State v. Jackson*, 130 Idaho 293, 294 (1997) (quoting *State v. Cotton*, 100 Idaho 573, 577 (1979)). Mr. Heisley does not allege that his sentence exceeds the statutory maximum. Accordingly, in order to show an abuse of discretion, Mr. Heisley must show that in light of the governing criteria, the sentence was excessive considering any view of the facts. *Id.* (citing *State v. Broadhead*, 120 Idaho 141, 145 (1991), *overruled on other grounds by State v. Brown*, 121 Idaho 385 (1992)). The governing criteria or objectives of criminal punishment are: (1) protection of society; (2) deterrence of the individual and the public generally; (3) the possibility of rehabilitation; and (4) punishment or retribution for wrongdoing. *Id.* (quoting *State v. Wolfe*, 99 Idaho 382, 384 (1978), *overruled on other grounds by State v. Coassolo*, 136 Idaho 138 (2001)).

By the time Mr. Heisley was sentenced, he had spent 15 months in administrative segregation isolation which, as he informed the court, gave him “an opportunity to reflect on [his] life and the things [he’s] done and where [he is] headed.” (Tr., p.27, Ls.7-12.) Mr. Heisley stated that he made a “conscious decision to try and focus on bettering [himself]” and on making the necessary changes, rather than feeding on negativity and bitterness. (Tr., p.27, Ls.13-18.) Mr. Heisley continued,

The main thing I wanted to get across, sir, is that I know that this isn’t for me. Prison is not my retirement plan. I know that I have it in me to do something better with my life and be a much better man.

Up to this point I made a lot of poor decisions, and I’m not proud of those, and I know that I – I’m fortunate enough to still have the love and support of my family. But I also know that a lot of my decisions they can’t be proud of either. And that’s not what I want.

And I just know that as soon as the opportunity does present itself for me to do something better, I’m going to take that opportunity.

(Tr., p.27, L.19 – p.28, L.5.) Mr. Heisley asserts that his acknowledgment that he had been on the wrong path and his desire to better himself should have been given greater consideration by the district court when imposing sentence. As such, Mr. Heisley asserts that the district court abused its discretion by imposing an excessive sentence.

CONCLUSION

Mr. Heisley respectfully requests that this Court reduce his sentence as it deems appropriate.

DATED this 16th day of May, 2016.

/s/ _____
JASON C. PINTLER
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 16th day of May, 2016, I served a true and correct copy of the foregoing APPELLANT'S BRIEF, by causing to be placed a copy thereof in the U.S. Mail, addressed to:

ERIC EUGENE HEISLEY
INMATE # 87302
IMSI
PO BOX 51
BOISE ID 83707

PATRICK H OWEN
DISTRICT COURT JUDGE
DELIVERED VIA EMAIL

DAVID LORELLO
ADA COUNTY PUBLIC DEFENDER
DELIVERED VIA EMAIL

KENNETH K JORGENSEN
DEPUTY ATTORNEY GENERAL
CRIMINAL DIVISION
DELIVERED VIA EMAIL

MAGALI CEJA
Administrative Assistant

JCP/mc